THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.9881 OF 2006

DATED 26.06.2006

BETWEEN

P.Suryanarayana Raju and another.

… Petitioners

and

The Mandal Revenue Officer, Kalla Mandal,
West Godavari District and others.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO
WRIT PETITION No.9881 OF 2006

ORDER:

The two petitioners assail the order of the Mandal Revenue Officer, Kalla Mandal, (MRO), dated 22.04.2006, whereby and whereunder the first respondent allowed respondents 2 and 3 to enjoy the possession of the land and the Mandal Revenue Inspector-I, Kalla Mandal, was directed to restore possession to them. By impugned order, the case of the petitioners was disbelieved and was held that the land assigned to the petitioners was subsequently assigned to respondents 2 and 3 as the petitioners stopped cultivation of paddy in 1990. Aggrieved by the impugned order, the petitioners immediately filed an appeal being Appeal No.702 of 2006 on the file of the Revenue Divisional Magistrate-cum-Revenue Divisional Officer, Narsapur. They also appear to have prayed for an interim stay, in vain. Therefore, they are before this Court.

Learned counsel for the petitioners strenuously submits that the findings recorded by the MRO are not based on any record and that without verifying the records and without conducting proper enquiry, the MRO came to the conclusion that the petitioners are not in possession of the land and that the land originally assigned to them in 1967 was reassigned to respondents 2 and 3. This is, however, refuted by the learned Assistant Government Pleader for Revenue (Assignment).

It is well settled that when a statutory appeal or departmental appeal is filed by the aggrieved person, a writ petition would not lie (See **Bombay Metropolitan Region Development Authority v Gokak Patel**

Volkart Limited[1]). Therefore, this Court is not inclined to interfere at this stage. Learned counsel for the petitioner does not dispute this. He however submits that the petitioners are in possession of the land and if they are evicted at this stage, such an appeal would be rendered useless. This Court is not able to agree with the same having regard to the observations made by the MRO. The petitioners are given liberty to approach the Revenue Divisional Officer, Narsapur, immediately with a copy of this order and press for appropriate interim orders. The Revenue Divisional Officer, Narsapur, is directed to dispose of the stay application filed by the petitioners immediately after receiving a copy of this order through the Court or when a certified copy of this order is produced by the petitioners before him.

The writ petition is accordingly disposed of. No costs.

(V.V.S.RAO,J)

26.06.2006
pln

Note: Issue CC by 28.06.2006.
By order
pln

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[1] (1995) 1 SCC 642